

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8148 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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RATANJIBHAI HIRJIBHAI CHAUDHARY

Versus

STATE OF GUJARAT  
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Appearance:

1. Special Civil Application No. 8148 of 1999  
Mr. Mahesh B. Patel for MR RJ GOSWAMI for Petitioner No. 1  
Mr. KL Pandya, AGP for Respondent No. 1-4
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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 10/11/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Patel for Mr. Goswami  
for the petitioner and Mr. KL Pandya, learned AGP for the

respondent authorities. Following interim order was passed by this court on 21.2.2000:

" Heard learned advocate Mr. Kogje for the petitioner.

2. Petitioner before this Court is a Police

Sub Inspector who, on 30th October, 1988, lost his 'service-revolver' and ammunition. The FIR was also lodged by the petitioner in this respect on 30th October, 1988. In view of the value of the revolver mentioned in the First Information Report, a sum of Rs.15,000.00 was ordered to be recovered from the petitioner being the price of the lost revolver. For the negligence shown by the petitioner, a disciplinary action was initiated against him and a minor punishment was imposed. It appears that the loss suffered by the respondents had not been valued by an expert. After valuation made by an expert, by an order dated 20th September, 1999, a sum of Rs.50,125.64 ps. is ordered to be recovered from the petitioner. Feeling aggrieved, the petitioner has preferred the present petition. It is submitted that the lost revolver has been over valued by the respondents authorities and the petitioner has not been given opportunity of hearing before the petitioner was ordered to indemnify the respondents for the said lost revolver.

4. In response to the notice issued by this court, the Special Inspector General of Police (P&M), one Shri Vinit K. Gupta has filed the counter affidavit. The affidavit does not answer the matter at issue. RULE. Ad.interim relief is confirmed. The respondent No. 2 shall be at liberty to withdraw the sum of Rs.15,000.00 deposited with this court by way of costs of the lost revolver.'

The question is that the service revolver which was allotted to the petitioner was misplaced and/or stolen and, therefore, price of the said service revolver was required to be recovered from the petitioner. In respect of the said service revolver misplaced and/or stolen while in possession of the petitioner, departmental inquiry was initiated against the petitioner and the respondent authority has imposed a punishment of stoppage of one annual increment without cumulative

effect by order dated 31st August, 1989. In the present petition, the petitioner is praying for setting aside the said order of punishment dated 31st August, 1989. The second order is passed on 29th October, 1997 with a direction to the petitioner to deposit Rs.15000.00 being the price of the service revolver and the cartridges and, thereafter, higher authority i.e. the District Superintendent of Police, Banaskantha District at Palanpur on 16th January, 1999 ordered to recover Rs.50,125.64 ps. from the petitioner instead of Rs.15,000.00. The petitioner has subsequently approached the Special Secretary, Home Department on 28th November, 1998 against the orders dated 15.9.1998 and 28th November, 1998 which representation is still pending before the said authority.

In view of these facts, considering the order dated 16th January, 1999 and the punishment order dated 31st August, 1989, it is open for the petitioner to approach the Special Secretary, Home Department for consideration of his representation and to pass appropriate orders while keeping in view the interim order passed by this court on 21st February, 2000 which is reproduced hereinabove. It is open for the present petitioner to make representation within the period of one month from the date of receipt of copy of this order and the Special Secretary Home Department is directed to decide such representation of the petitioner within three months from the date of receipt thereof from the petitioner in accordance with law and to communicate his decision to the petitioner immediately thereafter.

With these observations and directions, this petition is disposed of. Rule is discharged. There shall be no order as to costs.

Dt.10.11.2003. (H.K. Rathod,J.)  
Vyas